



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2013-39

Legistar #: 20131105

Board of Zoning Appeals Hearing: Monday, October 28, 2013 – 6:00 p.m.

Property Owner: Carriage Oaks Swim & Tennis Assoc. Inc.
6 Carriage Oaks Drive
Marietta, GA 30064

Applicant: Jeffrey C. Glover, LLC
3667 Autumn View Drive
Acworth, GA 30101

Address: 6 Carriage Oaks Drive

Land Lot: 03250 District: 20 Parcel: 2550

Council Ward: 4 Existing Zoning: R-3 (Single Family Residential 3 units/acre)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to allow an accessory structure be located closer to the right of way than the principal building. [§708.03 (F)(I.)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.

2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



Pool House at 6 Carriage Oaks Drive



Proposed location of tennis pavilion



View of site from sidewalk on Whitlock Avenue



Trees along Whitlock Avenue



Inner row of trees along Whitlock Avenue

Recommended Action:

Approval. The applicant, Jeffrey C. Glover, is requesting a variance for a tennis pavilion at 6 Carriage Oaks Drive, the location of the Carriage Oaks Swim & Tennis Club. The subject property, zoned R-3 (Single Family Residential – 3 units/acre), is located at the entrance to the Carriage Oaks Subdivision at Whitlock Avenue and Carriage Oaks Drive, across from Marietta High School.

The applicant is proposing the construction of a tennis viewing pavilion behind the pool house and near the tennis courts. According to the letter submitted with the application, this location was chosen so that the pavilion could be accessed by the existing sidewalk. However, this places the pavilion closer to Whitlock Avenue than the principal structure, which is not allowed according to Section 708.03 (F.)(1.), which states “*In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.*”

The Board of Zoning Appeals denied variances for a partially constructed, stone landscape feature to exceed 15’ in height and be located closer to the right of way than the principal structure for Nazareth Plaza (585 Franklin Rd) in February 2012 (V2012-04). In November 2012, City Council granted a variance allowing Starbucks (30 Whitlock Ave) to place its dumpster enclosure nearer to the right of way than the principal building (V2012-44).

It appears that the pavilion could be located to the north or east of the tennis courts. However, these two locations are either obstructed by a playground, drainage swale, or topography. The proposed location is the most accessible and reasonable location for the pavilion. The elevation of the site is much lower than Whitlock Avenue, making it unlikely that the proposed pavilion



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will even be visible from Whitlock Avenue. The road frontage along Whitlock Avenue also contains a double row of evergreen plantings, which will further obscure the pavilion from the road. Since the proposed location should not adversely affect nearby properties or the surrounding area, *staff recommends approval of this variance request.*